RSC Republican Study Committee
Rep. Jeb Hensarling (R-TX), Chairman
Russ Vought, Executive Director
132 Cannon House Office Building
Washington, DC 20515
www.house.gov/hensarling/rsc
ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin……..……October 31, 2007

Contents:

Summary of the Bills (Combined)Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: $704 million over five years

Effect on Revenue: $11.409 billion increase over five years

Total Change in Mandatory Spending: $3.839 billion increase over five years

Total New State & Local Government Mandates: Several

Total New Private Sector Mandates: Several

Number of *Bills* Without Committee Reports: 0

Number of *Reported* Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

H.R. 3920—Trade and Globalization Assistance Act (*Rangel, D-NY*)

NOTE POSSIBLE CONSERVATIVE CONCERNS ON PAGE 12.

Order of Business: The bill is scheduled to be considered on Wednesday, October 31st, subject to a structured rule (H.Res. 781), making in order one Republican substitute, and attaching the text of H.R. 3796 to H.R. 3920. The Republican substitute will be summarized in a separate RSC document.

NOTE: Since the text of H.R. 3796, the Early Warning and Health Care for Workers Affected by Globalization Act (sponsored by Rep. George Miller, D-CA), will be appended on to H.R. 3920 by the rule, a summary of H.R. 3796 is provided below.

Background: There are two main TAA programs—TAA for workers and TAA for firms. TAA for workers provides assistance to qualifying workers who lose their jobs because of increased imports or shifts in production out of the United States.

Under TAA for workers, certified workers whose unemployment compensation has ended and who are in approved training may receive Trade Readjustment Allowances (TRA) for a maximum of 130 weeks (52 weeks of basic assistance plus 78 weeks of additional assistance for certain situations) to help cover job training, job search expenses, and relocation expenses. A worker must qualify for, and exhaust, his state unemployment compensation benefits before receiving a weekly TRA, which is equal to the worker's most recent unemployment compensation benefit. To be eligible for TRA, workers must have become unemployed for one of three reasons:

- their jobs moved to a country with which the U.S. has a free trade agreement or to beneficiary countries under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basis Economic Recovery Act;
- their job losses can be attributed to increased imports that contributed importantly to an actual decline in sales or production; or
- their job losses resulted from the loss of business with a primary firm because of a trade-related reason.

Some TAA-eligible workers above age 50 can opt for Alternative Trade Adjustment Assistance (ATAA), which provides a wage supplement instead of job retraining. Furthermore, TAA participants can claim a refundable Health Coverage Tax Credit (HCTC), aimed at eligible TAA and ATAA workers pay for health insurance, and payable whether a person owes any federal taxes or not.

Obtaining TAA or ATAA benefits is a two-stage process:

1. a group of three or more workers must petition the Department of Labor to become TAA-certified and ATAA-certified (if appropriate); and
2. individual workers apply for TAA or ATAA benefits at a local career center.

In fiscal year 2006, 172,651 worker petitions filed for TAA, 129,552 of which were granted. In FY2006, the average weekly payment was $293, and total federal outlays for TAA for workers were over $800 million.

For more background on TAA for workers, see this report.

Under TAA for firms, which is administered by the Economic Development Administration of the U.S. Department of Commerce, firms certified to be negatively impacted by free trade agreements can apply for technical assistance to help them make business adjustments aimed at

remaining competitive. TAA for firms was reauthorized through FY2007 at $16 million per year as part of the Trade Act of 2002, although actual appropriations have been significantly less.

To receive TAA assistance, a firm must first be certified as eligible by demonstrating that:

- a "significant" number or portion of workers became or are threatened to become totally or partially separated;
- sales, production, or both decreased absolutely; and
- increased imports of competing articles "contributed importantly" to the decline in sales, production, and/or workforce.

Once certified, a firm has two years to apply for assistance in developing and/or implementing its adjustment proposal. Approval depends on the federal government's finding that the adjustment proposal:

- is reasonably designed "to materially contribute" to the economic adjustment of the firm;
- gives adequate consideration to the interests of the firm's workers; and
- demonstrates that the firm will use its own resources for adjustment.

Although TAA for firms could go directly ot companies, in practice, the assistance is provided through one of the eleven Trade Adjustment Assistance Centers (TAACs), which operate as non-federal consultants. In fiscal year 2006, 137 firms applied for, and 137 firms received, TAA assistance through the TAACs.

For more background on TAA for firms, see this report.

TAA was formally established by the Trade Expansion Act of 1962 (P.L. 87-794) but was "little used" (according to the Congressional Research Service) until the Trade Act of 1974 (P.L. 93-618) vastly expanded benefits and eligibility. The Trade Act of 2002 (P.L. 107-210) established ATAA and reauthorized and expanded TAA, both of which are set to expire on December 31, 2007.

Summary of H.R. 3920: H.R. 3920 would reauthorize and expand the Trade Adjustment Assistance (TAA) programs under the Trade Act of 1974 (as expanded in 2002). Highlights of the legislation by title are as follows:

Title I: Trade Adjustment Assistance for Workers

- Expands TAA eligibility to workers in a **service sector** firm (or subdivision of such firm) or in a **government agency at any level** on the same terms as those applied to manufacturing workers (i.e., the workers must be employed by a firm where a significant number of workers have been or are threatened with layoff and there is a demonstrated connection between the layoffs and trade, and the foreign services must be "like or directly competitive" with the American services in question).

- Expands TAA to apply to production or services relocated to **ANY foreign country**, not just countries that have free trade agreements with the U.S. or are part of a regional trade preference agreement.

- Expands TAA to include workers who lose their jobs because their firm obtains "like or directly competitive" articles or services from a foreign firm on a contract basis ("outsourcing").

- Eliminates the requirement for "downstream" firms (firms that subsequently add value to a product or service) that the primary firm's TAA certification be linked to trade with Canada or Mexico.

- Alters the definition of "upstream" supplier (firms that provide products or services so that another firm could subsequently add value) and "downstream" producer to include firms that provide services.

- Provides for automatic group TAA certification for workers laid off from firms covered by an affirmative injury determination under existing U.S. anti-dumping, countervailing duty, or safeguard laws.

- Allows the Secretary of Labor to rely on the certifications of customers that comprise at least 20% of the firm's sales to determine that the customers are obtaining services from overseas.

- Allows the Secretary of Labor to rely on information provided by the firm or the public agency experiencing the layoff, or customers of the firm, in making its eligibility determinations about offshoring or outsourcing.

- Requires the Secretary of Labor to obtain information from the firm or customer—when requested by the workers (or other such entity) petitioning for TAA coverage.

- Directs the Secretaries of Commerce and Labor to monitor imports of services (in addition to tangible products, as under current law). The Secretary of Labor would have to collect data on impacted service workers (by state, industry, and cause).

- Requires the Secretary of Labor to conduct an **industry-wide TAA certification** investigation when either three petitions from firms in the same industry are certified within a six-month period or when the President, the United States Trade Representative, the House Ways and Means Committee, or the Senate Finance Committee requests the Secretary to conduct such an investigation. The investigation would determine whether all workers in an industry or alternatively, all workers in an industry within a specific geographic region, should be eligible for TAA. *(NOTE: current-law TAA certifications are for individual workers and individual firms only.)*

- Once an industry-wide determination is made, the Secretary would have to identify all the firms covered by the determination, the workers for which would be automatically

eligible to apply for TAA. Such determinations, which would have to be publicly available, could not reach back to more than a year before the investigation began and could be effective indefinitely (until the Secretary of Labor issues a termination order). As the Democrat staff of the Ways & means Committee writes, "The industry-wide determination is likely to increase the number of workers eligible for TAA."

- Reaffirms illegal immigrant workers' ineligibility from receiving any TAA benefits, including income support, employment services, or training.

- Requires the Secretary of Labor to notify the Secretary of Commerce of the identity of the firms covered by any TAA certification (including an industry-wide certification), with the intention of helping the Commerce Department notify firms of their potential TAA for Firms eligibility.

- Changes the date on which a worker can start receiving TAA assistance from 60 days after the petition filing to the date of certification.

- Strikes the current-law requirement that, to receive TAA assistance, a worker must be enrolled in an approved training program by the later of 8 weeks after the TAA certification or 16 weeks after the job loss. Gives workers 26 weeks from either the TAA certification (if the job loss was before the TAA certification) from the job loss (if it occurred after TAA certification) to enroll in job training, subject to generous waiver provisions.

- Disregards, for purposes of determining a worker's weekly trade readjustment allowance (TRA) amount, earnings where the worker is working part-time and participating in full-time training to ensure that workers would retain the amount of income support provided initially under TRA even if a new unemployment compensation benefit period (with a lower weekly amount) is established by part-time or short-term full-time employment. *(NOTE: TRA amounts are determined by most current unemployment compensation amounts).*

- Increases the number of weeks a worker can receive Basic TRA from 52 to 78 and increases the number of weeks a worker can receive Additional TRA from 52 to 91. *(NOTE: Basic TRA is the initial TAA assistance, while Additional TRA is additional assistance based on extended and consecutive job training.)*

- Provides that periods during which an administrative or judicial appeal of a negative TAA determination would not count toward a worker's TRA eligibility, and allows the Secretary to extend TRA deadlines based on such factors as a worker's failure to receive timely information, delays in certification associated with appeals, and "justifiable" breaks in training.

- Strikes the current-law provision making a worker ineligible for Additional TRA if the worker has not applied for training 210 days from TAA certification or job loss, whichever is later.

- Strikes the Department of Labor prohibition on TAA participants using personal resources to fund training programs that extend beyond normal program eligibility.

- Increases the total amount of TAA payments for job training from $220 million a year to $440 million in FY2008, $440 million in FY2009, and $660 million in FY2010 and each year thereafter.

- Clarifies that training funds can be used to pay for training at an accredited institution of higher education, including training to obtain or complete a degree or certification program (where completion of the degree or certification can be reasonably expected to result in employment).

- Offers up to an additional 26 weeks of TAA income support to certain workers taking prerequisite classes necessary to enter job training.

- Provides that a worker would still be eligible for unemployment compensation or TAA if the worker is in job training (even if the worker does not meet the requirements of availability for work, active work search, or refusal to accept work under federal and state unemployment insurance law) or leaves work to participate in training (including temporary work during a break in training).

- Authorizes that each state receiving a TAA training payment receive an <u>additional</u> payment equal to at least 15% of its training funding allocation to cover administrative expenses (including the collection of data).

- Authorizes that each state receiving a TAA training payment receive an <u>additional</u> payment equal to at least 0.06% of its training funding allocation to use for case management and employment services.

- Reimburses 100% of a worker's job search expenses, up to $1,500, and 100% of a worker's relocation expenses, up to $1,500. *(NOTE: current law for both is 90% federal reimbursement, up to $1,250.)*

- Increases the amount of the refundable Health Coverage Tax Credit (HCTC), available to TAA beneficiaries, from 65% to 85% of the beneficiary's expenses for qualified health insurance for the taxpayer and his or her qualifying family members. Eliminates the requirement that HCTC apply only to people enrolled in job training while they received unemployment compensation.

- Makes HCTC eligibility retroactive to TAA-related loss of employment.

- Provides continued HCTC eligibility for qualifying family members for up to three years after the eligible individual becomes entitled to Medicare, gets divorced, or dies.

- Disregards the period beginning on the date an individual has a TAA-related loss of health insurance coverage and ending on the date which is five days after the postmark date on the HCTC eligibility notice by the Secretary of the Treasury when determining HCTC eligibility. *(NOTE: to be HCTC eligible, an individual cannot have more than a 63-day lapse of health insurance coverage.)*

- Sunsets the HCTC on December 31, 2009, except for people already in the program for several months leading up to that date. *(Presumably, this sunsetting is for scoring purposes, since the bill also expands the HCTC.)*

- Eliminates the current-law requirement for Alternative Trade Adjustment Assistance (ATAA; wage insurance for people age 50 and older) that a worker must find employment within 26 weeks of being laid off to be eligible for ATAA, and replaces it with a requirement that the two-year duration of the benefit begin at the sooner of exhaustion of regular unemployment benefits or reemployment.

- Eliminates a requirement that firms (in addition to individuals) be specifically certified for ATAA, in addition to TAA.

- Increases the ATAA limit on wages in eligible reemployment from $50,000 a year to $60,000 a year, and increases the maximum wage insurance benefit from $10,000 over two years to $12,000 over two years. *(NOTE: under current law, a worker cannot be reemployed at $50,000 a year or more and still be eligible for ATAA wage support.)*

- Lifts the restriction on ATAA recipients' participation in TAA-funded training, allows workers reemployed less than full-time, but at least 20 hours a week, and in approved training, to receive the ATAA benefit.

- Extends ATAA, set to expire at the end of this year, for five years.

- Expands the TAA-related matters that the federal government can "contract out" to the administration of the states to include level of employment services and case management services. *(NOTE: Current law gives the Secretary of Labor the authority to delegate to the states through agreements many aspects of TAA implementation, including responsibilities to receive applications for TAA and provide payments, perform employment services and case management activities, and issue waivers.)*

- Creates an Office of Trade Adjustment Assistance, headed by a Senate-confirmed Deputy Assistant Secretary of Labor, who will be responsible for overseeing implementation of the TAA for Workers program. *(NOTE: The TAA for Workers program is currently operated by the Employment and Training Administration at the Department of Labor.)*

- Directs the Secretary of Labor to implement a publicly-available system for collecting and disseminating detailed data on all workers who apply for or receive TAA.

- Extends the termination date for the TAA for Workers program from December 31, 2007 to September 30, 2012.

- Reauthorizes the TAA for Farmers program through September 30, 2012 (set to expire at the end of this calendar year) at $81 million for the nine-month period beginning on January 1, 2008, and $90 million for each of fiscal years 2009 through 2012.

- Requires that the findings of fact regarding reviews of denied TAA applications be supported by substantial evidence and be based on a "reasonable investigation" by the relevant Department (Labor, Commerce, Agriculture). The Court of International Trade (CIT) would be given the authority to reverse negative determinations by the relevant Department and certify group petitions.

- States that the TAA provisions concerning workers and firms shall be "liberally" construed in favor of certifying workers and firms for TAA, rather than to weed out applicants.

Title II: Trade Adjustment Assistance for Firms

- Makes service sector firms potentially eligible for TAA for Firms. *(Currently, only manufacturers are eligible.)*

- Allows firms to use three years of past data to demonstrate need for TAA, rather than just one year. *(NOTE: To be TAA-eligible, a firm has to show that its sales, production, or both, have decreased absolutely or that its sales, production, or both of an article or service that accounts for at least 25% of its total production or sales have decreased absolutely.)*

- Allows the use of three years of import data,, instead of just one year, to determine TAA eligibility.

- Directs the Secretary of Commerce, upon receiving notice from the Secretary of Labor that the workers of a firm are TAA-covered, to notify that firm of its potential TAA eligibility as a whole.

- Extends the authorization for TAA for Firms through September 30, 2012 (currently set to expire on December 31, 2007), increases its authorized funding to $50 million per year (up from $16 million). Of this amount, $350,000 would be reserved annually to fund full-time TAA for Firms positions at the Commerce Department.

- Authorizes the Commerce Department to establish programs relating to the service sector, and makes groups and associations eligible for technical assistance if a substantial number of workers in the group or association has received industry-wide certification.

- Authorizes $3 million over three years to establish a demonstration project within the TAA for Firms program to promote several goals, including: expanding the number of

firms able to participate in the program without expending more money, integrating the benefits of other government programs with TAA for Firms, increasing the exports of small and medium-sized firms, and helping small and medium-sized firms secure government contracts.

Title III: Unemployment Insurance

- Provides up to $7 billion in additional funds to states' accounts in the Unemployment Trust Fund (UTF) as "modernization incentive payments" for including certain policies in their respective laws. One-third of a state's maximum payment would be contingent on the state law either:
  --using a base period that includes the most recently completed calendar quarter before the start of the benefit year for the purposes of determining eligibility for unemployment compensation (UC); or
  --providing that, in case of an individual who would not otherwise be eligible for UC under state law, eligibility would be determined using a base period that includes such a calendar quarter.

- Allocates the remainder of the maximum payment contingent on state law containing at least two of the following three provisions:

  1. No denial of UC under state law relating to availability for work, active search for work, or refusal to accept work solely because such individual is seeking only part-time work.
  2. No disqualification from regular UC for separation if it is for compelling family reasons. (such as domestic violence or disability of an immediate family).
  3. Weekly UC continues to individuals who have exhausted all rights to regular and extended UC but are enrolled and making satisfactory progress in a state-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. This benefit extension would have to be for at least an additional 26 weeks and be equivalent to the previously calculated UC benefit.

- States would have to apply for these extra funds from the UTF.

- Transfers an additional $100 million per year from the federal account in the UTF to the states account to be used by states for administration of increased UC benefits, in proportion to each state's increased activities.

- Maintains the 6.2% federal share of the unemployment insurance excise tax rate on the first $7,000 in employee wages through 2010.

- Establishes a Safety Net Review Commission to evaluate the unemployment compensation program, the TAA program, the Job Corps program, programs under the Workforce Investment Act, and other employment assistance programs.

Title IV: Manufacturing Redevelopment Zones

- Directs the Secretary of the Treasury to designate not more than 24 manufacturing redevelopment zones (tax-preference areas for businesses), selected from among areas nominated for designation by state and local governments, and not to exceed an aggregate population of two million. Each zone would be effective for no more than ten years.

- A nominated area would be eligible for designation as a manufacturing redevelopment zone if three requirements are met:
  --the area must meet the eligibility criteria (population, distress, size, and poverty rate criteria) applicable to enterprise communities and empowerment zones (26 U.S.C. 1392);
  --the area must have experienced a significant decline in the number of individuals employed in manufacturing or has a high concentration of abandoned or underutilized manufacturing facilities; and
  --no portion of the nominated area is located in an empowerment zone (26 U.S.C. 1391) or renewal community (26 U.S.C. 1400(e)), unless the local government that nominated the area elects to terminate such designation as an empowerment zone or renewal community.

- Allows the Secretary to waive the poverty rate criteria, in determining whether a nominated area is eligible for designation as a manufacturing redevelopment zone, if the nominated area has experienced a loss of manufacturing jobs in excess of 25% over the previous 20 years.

- Creates a new $150 million category of tax-credit bonds, "Manufacturing Redevelopment Tax Credit Bonds," which would be bonds that are to be used 100% for qualified manufacturing redevelopment purposes (e.g. capital expenditures for environmental remediation, improvements to public infrastructure, and construction of public facilities) within the three-year period that begins on the date of issuance are not private activity bonds, and are designated as Manufacturing Redevelopment Bonds by the respective local governments that nominated the areas to which such bonds relate.

- Creates a new $230 million category of qualified private activity bonds, "Manufacturing Redevelopment Zone Bonds," which would be bonds that devote 95% or more of the net proceeds of such issue for manufacturing zone property (private business property in a manufacturing zone) and are designated as Manufacturing Redevelopment Zone Bonds by the respective local governments that nominated the areas.

- Expands the low-income housing credit to also apply in manufacturing redevelopment zones.

- Expands the Work Opportunity Tax Credit (WOTC) to also apply in manufacturing redevelopment zones. The WOTC provides an incentive to employers to employ individuals from certain economically depressed areas.

- Delays by three years (from tax-year 2009 to tax-year 2012) the commencement of a current-law provision allowing U.S. corporations to elect special interest allocation rules for foreign assets. This provision in current law is aimed at helping U.S. companies avoid double taxation of foreign income, thus this delay would further continue such double taxation. **NOTE: This provision is an $8.6 billion tax increase over four years.**

Summary of H.R. 3796: H.R. 3796 is expected to be appended on to H.R. 3920 by the rule for consideration of H.R. 3920.

H.R. 3796 would amend the Worker Adjustment and Retraining Notification (WARN) Act, which requires certain employers to provide employees, the local government, and the Labor Department advance notice of closings and layoffs, to expand the number of employers (ones with 25 or more employees being laid off at a single jobsite) and employees (including part-time employees) covered by WARN's mandates, and to require employers to provide such notice 30 days earlier than under current law (90 days in advance, instead of 60 days).

The Secretary of Labor would have to notify the appropriate U.S. senators and House members of impending plant closings or mass layoffs in their respective states or districts.

In addition, the bill would increase penalties from up to 60 days worth of back pay to up to 90 days worth of *double* back pay for each calendar day a WARN-related notice was required but not given. Further, the bill would give the Department of Labor the new power to investigate such violations and seek civil action in any court of competent jurisdiction. Such Labor Department action would suspend any right of private action.

An aggrieved individual could bring suit against an employer individually and/or file a complaint with the Department of Labor. Good-faith exceptions for non-compliant employers could only be used to avoid liability at the remedy stage of a lawsuit and would not completely remove liability.

H.R. 3796 would require that employers post, in conspicuous places on its premises, notice of the pertinent WARN information and information about filing a complaint (subject to a $500 penalty per violation). The rights and remedies provided under WARN could not be waived, deferred, or lost pursuant to any agreement of settlement, other than a settlement or agreement negotiated by the Secretary of Labor, an attorney general of any state, or a private attorney on behalf of affected employees.

The notice requirements of this legislation would not apply if the plant closing or mass layoff is due directly or indirectly to a terrorist attack on the United States.

The Secretary of Labor would have to maintain a guide of benefits and services that may be available to affected employees, including TAA, unemployment compensation, counseling, pre-training, COBRA benefits (see below), and services available under the Workforce Investment Act. The Secretary of Labor would have to immediately transmit this information to an employer who gives a WARN notice.

H.R. 3796 would also amend the Employee Retirement Income Security Act of 1974 (ERISA) to allow certain TAA for workers beneficiaries to retain COBRA health insurance coverage (continued group health coverage after job separation) for **ten years** (current law is 18 months). That is, employees who are 55 or older, or individuals who have worked for an employer for ten or more years, would have the option to elect COBRA coverage until they become Medicare eligible at age 65 or until they obtain health coverage through a subsequent employer.

Committee Action for H.R. 3920/H.R. 3796: On October 22, 2007, H.R. 3920 was referred to the Committees on Ways & Means, Education & Labor, and Energy & Commerce. On October 24th, the Ways & Means Committee marked up and ordered the bill reported to the full House by a vote of 26-14. The other two committees discharged the bill.

On October 10. 2007, H.R. 3796 was referred to the Education & Labor Committee, which, on October 18th, marked up and ordered the bill reported to the full House by a vote of 26-18.

Possible Conservative Concerns about H.R. 3920: Some conservatives have expressed significant concerns about the TAA program as it exists now. For example, TAA's existence implies that trade liberalization is something that needs correction by the federal government, as opposed to free-market forces. TAA implies that the net effects of trade liberalization are negative, when study after study has shown that the combined impact of innovation and reduced barriers to trade has delivered a huge positive impact on the U.S. economy. A job- or industry-adjustment process to increased trade is a natural, inevitable, aspect of a dynamic market economy working to allocate resources more efficiently and in a way that is in the United States' long-term interests.

Given the concerns about the current existence of TAA, it follows that some conservatives will have serious reservations about the sizable expansion of TAA in H.R. 3920. Examples of TAA expansion about which conservatives may be concerned include:

- The inclusion of service workers;
- The inclusion of government agency workers at all levels of government;
- The applicability to job-transfers to *any* foreign country (not just FTA or regional agreement countries);
- The inclusion of workers whose firms outsource materials or services on a contract basis;
- The creation of industry-wide determinations;
- Assistance starting sooner;
- Delayed commencement of job training;
- Prohibition on the lowering of TAA payments even when a person was recently employed part-time;
- Increased number of weeks for TRA and additional TRA;
- Making it easier to get and stay in the ATAA program;
- The use of three years of data for TAA for firms eligibility;
- $50 million a year for TAA for firms (up from $16 million); and
- The inclusion of groups and associations in TAA for firms when members have received industry-wide certification.

All of these provisions are aimed at getting more people on federal government assistance—starting sooner and lasting longer—with no new incentives to get off government assistance and no provisions to measure the success of the new assistance.

Recently, the Office of Management and Budget (OMB) rated TAA as "Not Performing/ Ineffective" mainly because the program lacks performance goals. H.R. 3920, with its focus on more money for, and more participants in, TAA without efficiency provisions to address the inevitable administrative hurdles in getting more assistance to more people, may seem to reinforce this Administration concern and offer no roadmap to overcoming it.

Some conservatives may also be concerned at H.R. 3920's increases in the refundable tax credit for TAA participants to buy health insurance. Traditionally, many conservatives have been opposed to refundable tax credits, since they are essentially mandatory spending through the tax code for people who have no federal income tax liability.

Some conservatives may also be concerned with H.R. 3920's incentives for states to increase unemployment compensation payments and the bill's related increased federal payments to the Unemployment Trust Fund. Consistent with the overall thrust of the bill, the unemployment compensation is aimed at getting more people on federal assistance and keeping them there for longer periods of time.

In sum, TAA and any expansion run contrary to free trade/ free market principles that conservatives hold dear.

Possible Conservative Concerns about H.R. 3796: Some conservatives may be concerned that the expansions of key provisions in WARN, especially the expanded coverage and the earlier notification period, could force employers into difficult situations in which they must "show their hands" while perhaps trying to avoid layoffs and restructuring. Further, such earlier notice could serve to harm companies by sooner alerting their competition—domestic and foreign—of potential troubles inside the company.

Some conservatives may also be concerned at the granting of lawsuit authority to the Department of Labor, which not only seems to be an inappropriate role for the federal government, but also a large administrative burden for the Department.

Additionally, some conservatives may be concerned about the expansion of the timeframe in which certain people could retain COBRA coverage, sharply increasing health insurance costs for employers already likely to be experiencing financial hardship, while possibly reducing available health care options for individuals.

Administration Position: While the Administration supports the TAA program, it recognizes the need for reform of the program so that its benefits are more targeted and more efficient, and thus issued a veto threat of H.R. 3920. The Administration also expressed strong opposition to H.R. 3796, which is expected to be attached to H.R. 3920. Read the full Statement of

Administration Policy (SAP) here: http://www.whitehouse.gov/omb/legislative/sap/110-1/hr3920sap-r.pdf.

Cost to Taxpayers: CBO estimates that H.R. 3920 would increase mandatory spending by $257 million in FY2008, by $3.823 billion over the FY2008-FY2012 period, and by $8.641 billion over the FY2008-FY2017 period. Additionally, CBO estimates that the bill would increase revenues by $952 million in FY2008, by $11.415 billion over the FY2008-FY2012 period, and by $9.370 billion over the FY2008-FY2017 period. Lastly, CBO estimates that the bill would authorize discretionary appropriations of $129 million in FY2008 and $704 million over the FY2008-FY2012 period.

CBO estimates that H.R. 3796 would increase mandatory spending by $2 million in FY2008, by $16 million over the FY2008-FY2012 period, and by $55 million over the FY2008-FY2017 period. Additionally, CBO estimates that H.R. 3796 would reduce revenues by $1 million in FY2008, by $6 million over the FY2008-FY2012 period, and by $21 million over the FY2008-FY2017 period.

Do the Bills Expand the Size and Scope of the Federal Government?: Both bills would expand existing government programs, bring people on to federal assistance sooner, and keep them there longer.

Do the Bills Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 3920 contains one intergovernmental mandate (inclusion of public sector workers in TAA) and several private-sector mandates (unemployment tax provision, health coverage tax credit provisions, and the delayed implementation of the worldwide interest allocation provision in current law).

H.R. 3796 contains the expansion of one intergovernmental mandate (reporting requirements) and several private-sector mandates (notification requirements and thresholds).

Do the Bills Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Ways & Means Committee, in House Report 110-414, asserts that H.R. 3920 "contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that Rule."

The Education and Labor Committee, in House Report 110-410, asserts that, "H.R. 3796 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI."

Constitutional Authority: The Ways & Means Committee, in House Report 110-414, cites constitutional authority for H.R. 3920 in Article I, Section 8, Clause 1 (the congressional power to lay and collect taxes, duties, imposts, and excises to promote the general welfare).

The Education and Labor Committee, in House Report 110-410, cites constitutional authority for H.R. 3796 in Article I, Section 8, but fails to citer a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific powers*

granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution." *[emphasis added]*

Outside Organizations: The Heritage Foundation has expressed opposition to many of the policies embodied by H.R. 3920, including the implied premises of TAA and its expansion (as discussed in "Possible Conservative Concerns" above), instead suggesting: "Congress should take this opportunity to offer tax-free dislocation savings accounts to fund retraining, strengthen the role of the states in providing retraining assistance, and reform and consolidate the TAA program with the Workforce Investment Act, simplifying a complex approach to training that will provide cost-effective, timely, and meaningful assistance to workers."

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718